

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RUBIN LAMONT STONE,

Petitioner,

Case No. 2:17-CV-142

v.

HON. GORDON J. QUIST

ROBERT NAPLES,

Respondent.

ORDER DENYING MOTION FOR EXTENSION OF TIME
AND ADOPTING REPORT AND RECOMMENDATION

On February 23, 2018, Magistrate Judge Greeley issued a Report and Recommendation (R & R) recommending that Petitioner's habeas corpus petition be denied as barred by the one-year statute of limitations. The R & R was mailed to Petitioner the day it was issued and Petitioner failed to file an objection within the time provided by 28 U.S.C. § 636(b)(1)(C). Instead, after the period for filing an objection expired, Petitioner filed a motion for an extension of time to file an objection. In his motion, Petitioner states that it is difficult for him to respond within such a short time because he is not trained in the law and is limited to only four hours per week of law library time. (ECF No. 10 at PageID.78.)

Even assuming that Petitioner filed his motion before the time for filing an objection expired, Petitioner has not shown "good cause" for an extension of time as required by Federal Rule of Civil Procedure 6(b)(1). Petitioner had no need to conduct legal research to file an objection, as the R & R accurately stated the law on equitable tolling. (ECF No. 7 at PageID.6–7.) Petitioner only needed to explain why "he ha[d] been pursuing his rights diligently," and what "extraordinary circumstance stood in his way." (*Id.* at PageID.7 (internal quotation marks and citation omitted). This

information was peculiarly within Petitioner's knowledge. Similarly, if Petitioner was aware of new evidence of his innocence to support a claim that he is actually innocent, he could have provided it to the Court.

Having reviewed the R & R, the Court finds no reason to reject the magistrate judge's conclusion that Petitioner's habeas petition is barred by the one-year statute of limitations. Accordingly, the Court will adopt the R & R.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Motion for Extension of Time (ECF No. 10) is **DENIED**.

IT IS FURTHER ORDERED that the February 23, 2018, Report and Recommendation (ECF No. 7) is approved and adopted as the Opinion of the Court, and Petitioner's habeas corpus petition is **DENIED** because it is barred by the one-year statute of limitations.

This case is **concluded**.

A separate judgment will enter.

Dated: March 16, 2018

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE